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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,879	01/10/2005	Carsten H Pedersen	742111-157	1176
25570 7590 05/15/2007 ROBERTS, MLOTKOWSKI & HOBBS P. O. BOX 10064 MCLEAN, VA 22102-8064			EXAMINER TILL, TERRENCE R	
			ART UNIT 1744	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,879	Applicant(s) PEDERSEN, CARSTEN H	
	Examiner Terrence R. Till	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 5, 9-11 and 14-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/7/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 13 show(s) modified forms of construction in the same view. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. In figure 13, applicant's show a tapered conical filter (in solid lines) and a truncated conical filter 52 with an aperture 53) that is a different embodiment.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6, 8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Silvera et al. (US 5,768,748- cited in IDS).

5. The patent to Silvera et al. discloses a device for removing undesired occurrences in hair and fur, where the device includes a mouthpiece 14 adapted to engage one end of a tube 16 attached to a source of vacuum, the mouthpiece including a mouth 54 and at least one comb 58 attached thereto, characterized in that the mouthpiece has a substantially elongated shape, and is arranged longitudinally inclining (see figures 2 and 3), forming a first angle relative to the longitudinal axis of the mouthpiece, wherein the comb is arranged to form a second angle (again, see figures 2 and 3) relative to the longitudinal axis of the mouthpiece, and wherein the comb covers less than half of the mouth of the mouthpiece. It should be noted that although the comb extends the width of the mouth, it does not cover more than 50% of the area of the mouth (see figures 2 and 3). Silvera et al. also discloses the comb is arranged uppermost in the mouth of the mouthpiece and is readily detachable (see column 2, lines 40-45), the comb covering a relatively small area of the total area of the mouth, as defined above, so that the mouthpiece under the comb presents a relatively large and open mouth, and the comb presents an edge of points of teeth, and wherein the mouth inclines rearwards and downwards from the edge of points of teeth when the longitudinal axis of the mouthpiece extends substantially in horizontal direction. Further, Silvera et al. discloses the filter 48 is disposed at a transition between a tube 18 and a pipe 44 and wherein the transition is formed by a locking mechanism 38 (and friction fit between the tube, first part 38 and pipe) providing access to the filter after unlocking, and that the filter is formed by a filter cylinder 38 interacting with the internal wall of the pipe and containing a

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bottom formed by a filter. The filter may be closed by a cover 20 when underpressure is present behind the filter and wherein the cover includes an end piece and a cylinder (see figure 3- end piece connects to nozzle, cylinder connects to tube 18), where the cylinder of the cover engages the internal wall of the filter cylinder.

6. With respect to the method claims 1 and 2, Silvera et al. is considered to inherently disclose the method steps of a sheaf of hair is sucked into the mouth whereby the sheaf of hair is hanging extended in the mouthpiece that wherein the comb is tilted in over the sheaf of hair (see figure 1) with an edge of points of teeth of the comb is in contact with scalp or skin on which the hair is growing, wherein the sheaf of hair is combed by pulling the comb through the sheaf of hair with the edge of the teeth in contact with the scalp or skin, after which the comb is tilted out of the sheaf of hair, that wherein the process including the above steps is repeated for the sheaf of hair causing undesired occurrences to be detached and sucked through the mouthpiece in order subsequently to be caught by the filter in the mouthpiece (see column 2, lines 55-67).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silvera et al. (US 5,768,748- cited in IDS).
10. With respect to claim 3, the patent to Silvera et al. does not disclose the method step of the comb is tilted freely in and out of the said sheaf simultaneously with combing with short strokes, wherein the edge of points of teeth in each combing movement is drawn over the scalp through the habitat area of the lice and vermin, and wherein the same area of the scalp is combed with short intervals. However, it would have been obvious to a person skilled in the art at the time the invention was made to use a method of tilting the comb in and out of the sheaf of hair and use short strokes, as one skilled in the art would recognize that if the sheaf of hair was badly infested with parasites, one would need to frequently lift the comb from the skin to remove the parasites and use short strokes to concentrate the force of vacuum and mechanical action of the comb in that area.
11. With respect to claim 7, the patent to Silvera et al. does not disclose the mouth is substantially circular as seen from the front, and wherein the comb extends in a plane substantially perpendicular to the longitudinal axis of the device. However, it would have been an obvious matter of engineering choice to modify the shape of the mouth to be substantially circular, and have the comb extend in a plane substantially perpendicular to the longitudinal axis of the device since such a modification would have involved a mere change in the shape or form of a component. A change in shape or form is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 149 USPQ 47 (CCPA 1976).

Allowable Subject Matter

12. Claims 5, 9-11 and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. The patents to Shores, Clayton et al., Dove, Shoemaker, Loscalzo, Woodruff and French patent to Belin all disclose vacuum nozzles having combs attached near the inlet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Terrence R. Till
Primary Examiner
Art Unit 1744

trt